

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

IN RE:	§	
	§	CASE NO. 16-60040 (DRJ)
LINN ENERGY, LLC, <i>et al.</i>	§	
	§	CHAPTER 11
Debtors.	§	
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DIANE G. REED, CHAPTER 7 TRUSTEE	§	
FOR THE BANKRUPTCY ESTATE OF	§	
RINCON ISLAND LIMITED LIMITED	§	
PARTNERSHIP,	§	
	§	
	§	
V.	§	ADV. NO. 18-06009
	§	
BERRY PETROLEUM COMPANY, LLC,	§	
CALIFORNIA STATE LANDS	§	
COMMISSION, SOCORRO CAPITAL,	§	
LLC, TORCH OPERATING COMPANY,	§	
TORCH ENERGY FINANCE FUND	§	
LIMITED PARTNERSHIP-I, AND	§	
TORCH ENERGY FINANCE COMPANY.	§	

TORCH ENERGY FINANCE FUND LIMITED PARTNERSHIP I'S RESPONSE
IN OPPOSITION TO DIANE G. REED, CHAPTER 7 TRUSTEE'S MOTION
FOR SUMMARY AND DEFAULT JUDGMENT

COMES NOW, Torch Energy Finance Fund Limited Partnership-I and files its Response in Opposition to Diane G. Reed, Chapter 7 Trustee's Motion for Summary and Default Judgment ("Trustee's Motion").

1. The subject of this Adversary is an Escrow Agreement, as amended, which are attached as Exhibits D and E to the Trustee's Motion.

2. Paragraph 3.1 of the Escrow Agreement reads, in pertinent part as follows:

3.1 Duration of Escrow. Escrow Agent, unless otherwise instructed by joint written instructions from Torch and TOC, shall deliver the Escrow Funds in accordance with section 3.2 below and hold any remaining Escrow Funds until the date ("Termination Date") upon which Escrow Agent receives written notice from Torch and TOC that the Work has been

completed in accordance with the Purchase Contract, the Partnership Agreement, the Operating Agreement and all applicable laws and that neither Buyer, Torch nor TOC has any accrued or contingent liability for any Costs.

The purported release contained in the proposed stipulation is insufficient to satisfy the above.

3. Torch demands that any release be as set forth below:

B. Releases.

1. Release. SLC, for itself and on behalf of any respective agents, related entities, commissioners, representatives, staff, administrators, beneficiaries, trustees, directors, officers, managers, members, employees, advisors, successors, predecessors, insurers, and assigns (if any), and any and all persons or entities acting by, through, under or in concert with any of them, past, present and future each hereby fully and forever irrevocably and unconditionally release, acquit, discharge and covenant not to sue Torch Operating Company, Torch Energy Finance Company, Torch Finance Fund Limited Partnership (collectively “Torch”), and each of Torch and its parent, subsidiaries, affiliated entities, divisions, predecessors, successors and assigns, and all of their respective past, present and future agents, servants, representatives, employees, officers, directors, shareholders, members, managers, attorneys, insurers, executors, heirs, beneficiaries, administrators, and any and all persons acting by, through, under or in concert with any of them and each of them (collectively, the “Torch Released Parties”), from any and all claims, rights, liabilities, fines, penalties, obligations, demands, debts, costs, actions, causes of actions, suits, damages, expenses, rents, royalties, attorney fees, and compensation of every kind and nature whatsoever, whether arising in contract or tort, including without limitation any relating to fraud, including without limitation fraud in the inducement, that any of them ever had, or now have, whether known or unknown, whether asserted or unasserted, contingent or absolute, anticipated or unanticipated that SLC has had, now has, or may in the future have against the Torch Released Parties relating to that certain Amendment to State Oil and Gas Leases PRC 145.1, PRC 410.1, PRC 429.1 and PRC 1466.1 and Right of Way Leases PRC 1961.1 and PRC 5968 Berry Rincon Field effective November 1, 1995 as such leases may have been amended.

2. Specific Waiver of Unknown Claims. In furtherance of the releases set forth above, SLC acknowledges and waives the benefits of California Civil Code Section 1542 (and all similar ordinances and statutory, regulatory, or judicially created laws or rules of any other jurisdiction), which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

4. Until Torch is released of “any accrued or contingent liability for any costs,” Torch opposes Trustee’s Motion.

WHEREFORE, premises considered, Torch prays that the Court deny the Trustee’s Motion and grant Torch such further relief as is just.

HIRSCH & WESTHEIMER, P.C.

By: /s/ Michael J. Durrschmidt

Michael J. Durrschmidt
Texas Bar No. 06287650
Victoria N. Argeroplos
Texas Bar No. 24105799
1415 Louisiana, Floor 36
Houston, Texas 77002
Telephone: 713-220-9165
Facsimile: 713-223-9319
E-mail: mdurrschmidt@hirschwest.com
E-mail: vargeroplos@hirschwest.com

**ATTORNEYS FOR TORCH ENERGY
FINANCE FUND LIMITED PARTNERSHIP-I**

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of October, 2019, a copy of the foregoing Notice of Appearance of Counsel was served via first class mail, postage prepaid, and/or via the Clerk of the Court through the ECF system.

/s/ Michael J. Durrschmidt

Michael J. Durrschmidt